

**Eric Opiela PLLC**  
**ATTORNEY AND COUNSELOR AT LAW**  
6612 MANZANITA ST.  
AUSTIN, TEXAS 78759

Telephone: 512.791.6336  
Fax: 512.729.0226

E-mail: [eopiela@ericopiela.com](mailto:eopiela@ericopiela.com)  
Website: [www.ericopiela.com](http://www.ericopiela.com)

July 20, 2015

**Via Electronic Mail [fhampton@fec.gov](mailto:fhampton@fec.gov) & [jjordan@fec.gov](mailto:jjordan@fec.gov)**

Jeff S. Jordan  
Assistant General Counsel  
Complaints Examination & Legal Administration  
Federal Election Commission  
999 E Street, NW  
Washington, DC 20436

**Re: MUR 6944**

Dear Mr. Jordan:

I am writing in response to the complaint filed by Ambrosino Hernandez ("Complainant") against my clients, Jose Adan Farias, Aquiles J. "Jimmy" Garza, Mario Bracamontes, and Arturo J. Cortez, who were candidates on the Pharr First ticket ("the Pharr First Candidates") for Mayor and City Commission of Pharr, Texas in the May 9, 2015 Municipal Election. The Complainant, Mr. Hernandez, was also a candidate for Mayor of Pharr in the same election on the Pharr Forward ticket, opposing Mr. Farias. I have attached Statements of Designation of Counsel to this Response.

The Hernandez Complaint alleges the Pharr First Candidates violated 2 U.S.C. §441e, which prohibits the solicitation, acceptance, or receipt of a contribution or donation from a foreign national as defined in that section. Hernandez complains of a \$100 contribution from Integrated Border Services, a Texas Limited Liability Company, which was reported on the Pharr First Candidates' campaign finance reports as being received on 2/18/2015. The substance of Complainant's allegation was that the address indicated on the check was Cortuo 302, Reyonso, Mexico. The Hernandez Complaint on its face does not allege a violation of 2 U.S.C. §441e, as the contribution, which was drawn on funds from an United States bank, and from a Texas LLC, is not a contribution from a foreign national. In the alternative, the implementing regulations for this section, promulgated by the Federal Election Commission ("the Commission") at 11 CFR 110.20, require that a candidate knowingly solicit, accept, or receive a contribution from a foreign national to violate the prohibition. Given that the contribution was from a Texas LLC, and drawn on a United States bank, The Pharr First Candidates did not have reason to believe that the contribution was prohibited, however, after seeking the advice of counsel, they refunded the contribution on May 1, 2015 to the contributor, in compliance with 11 CFR 103.3(b)(2). Therefore, the Pharr First Candidates request that the Hernandez Complaint be dismissed, as there is no reason to believe that a violation has occurred and further use of Commission resources in prosecuting this complaint is not warranted.

Applicable Law and Commission Regulations

2 U.S.C. §441e(a), in relevant part, states:

It shall be unlawful for—

(1) a foreign national, directly or indirectly, to make—

(A) a contribution or donation of money or other thing of value, or to make an express or implied promise to make a contribution or donation, in connection with a Federal, State, or local election;

(B) a contribution or donation to a committee of a political party; or

(C) an expenditure, independent expenditure, or disbursement for an electioneering communication (within the meaning of section 434 (f)(3) of this title); or

(2) a person to solicit, accept, or receive a contribution or donation described in subparagraph (A) or (B) of paragraph (1) from a foreign national.

2 U.S.C. §441e(b), defines a foreign national as follows:

As used in this section, the term “foreign national” means—

(1) a foreign principal, as such term is defined by section 611 (b) of title 22, except that the term “foreign national” shall not include any individual who is a citizen of the United States; or

(2) an individual who is not a citizen of the United States or a national of the United States (as defined in section 1101 (a)(22) of title 8) and who is not lawfully admitted for permanent residence, as defined by section 1101 (a)(20) of title 8.

Since Complainant does not allege a contribution by an individual, one must turn to the definition of foreign principal as defined in 22 U.S.C. §611(b):

The term “foreign principal” includes—

(1) a government of a foreign country and a foreign political party;

(2) a person outside of the United States, unless it is established that such person is an individual and a citizen of and domiciled within the United States, or that such person is not an individual and is organized under or created by the laws of the United States or of any State or other place subject to the jurisdiction of the United States and has its principal place of business within the United States; and

(3) a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country.

The Commission has promulgated the following implementing regulation of 2 U.S.C. §441e at 11 CFR 110.20, in relevant part:

Prohibition on contributions, donations, expenditures, independent expenditures, and disbursements by foreign nationals (52 U.S.C. 30121, 36 U.S.C. 510).

(a) *Definitions.* For purposes of this section, the following definitions apply:

...

(3) *Foreign national* means—

- (i) A foreign principal, as defined in 22 U.S.C. 611(b); or
- (ii) An individual who is not a citizen of the United States and who is not lawfully admitted for permanent residence, as defined in 8 U.S.C. 1101(a)(20); however,
- (iii) *Foreign national* shall not include any individual who is a citizen of the United States, or who is a national of the United States as defined in 8 U.S.C. 1101(a)(22).

(4) *Knowingly* means that a person must:

- (i) Have actual knowledge that the source of the funds solicited, accepted or received is a foreign national;
- (ii) Be aware of facts that would lead a reasonable person to conclude that there is a substantial probability that the source of the funds solicited, accepted or received is a foreign national; or
- (iii) Be aware of facts that would lead a reasonable person to inquire whether the source of the funds solicited, accepted or received is a foreign national, but the person failed to conduct a reasonable inquiry.

(5) For purposes of paragraph (a)(4) of this section, pertinent facts include, but are not limited to:

- (i) The contributor or donor uses a foreign passport or passport number for identification purposes;
- (ii) The contributor or donor provides a foreign address;
- (iii) The contributor or donor makes a contribution or donation by means of a check or other written instrument drawn on a foreign bank or by a wire transfer from a foreign bank; or
- (iv) The contributor or donor resides abroad.

(6) *Solicit* has the same meaning as in 11 CFR 300.2(m).

(7) *Safe Harbor*. For purposes of paragraph (a)(4)(iii) of this section, a person shall be deemed to have conducted a reasonable inquiry if he or she seeks and obtains copies of current and valid U.S. passport papers for U.S. citizens who are contributors or donors described in paragraphs (a)(5)(i) through (iv) of this section. No person may rely on this safe harbor if he or she has actual knowledge that the source of the funds solicited, accepted, or received is a foreign national.

...  
(g) *Solicitation, acceptance, or receipt of contributions and donations from foreign nationals*. No person shall knowingly solicit, accept, or receive from a foreign national any contribution or donation prohibited by paragraphs (b) through (d) of this section.

Argument

Complainant alleges that the Pharr First Candidates accepted a contribution from a foreign national. This is simply not the case. Integrated Border Services is a LLC organized under the laws of the state of Texas. See Exhibit A (Certificate of Fact from Texas Secretary of State). Its principal place of business is 923 Produce Road, Hidalgo, Texas. *Id.* Like many businesses in this border community, it also has a Mexican address, Cortuo 302, Reyonoso, Mexico, which was printed on the contribution check, which, incidentally, was drawn on a

United States Bank. The definition of foreign national includes foreign principals. 2 U.S.C. §441e(b)(1). A foreign principal includes "a partnership, association, corporation, organization, or other combination of persons organized under the laws of or having its principal place of business in a foreign country." 22 U.S.C. §611(b). Integrated Border Services is not a foreign principal because it is organized under the laws of Texas and has as its registered address as 923 Produce Road, Hidalgo, Texas. The fact that it has an office in Mexico as well does not make it a foreign principal.

At the time the contribution was accepted, the Pharr First Candidates did not have reason to believe the contribution was from a foreign national, because Integrated Border Services was a Texas LLC which operated both in Texas and in Mexico, and the funds were drawn on a United States bank. They therefore had no actual knowledge that the source of the funds was prohibited. However, due to the foreign address on the check, they sought the advice of counsel, who determined that due to the foreign address on the check, it was advisable to refund the contribution. While this does not, in and of itself make Integrated Border Services a foreign national, out of an abundance of caution, the Pharr First Candidates refunded the contribution on May 1, 2015, prior to the filing of the Hernandez Complaint which is the subject of this MUR (Exhibit 2, Refund Check to Integrated Border Services).

Therefore, the Pharr First Candidates respectfully request that this Matter Under Review be dismissed and the Commission find that there is no reason to believe a violation of the Act or Commission regulations occurred as the complaint fails to allege a violation of 2 U.S.C. §441e, since Integrated Border Services does not meet the definition of a foreign national as defined in the Code. Additionally, the Pharr First Candidates request that the complaint be dismissed because further proceedings in the matter do not merit further use of Commission resources. As soon as counsel for the Pharr First Candidates recommended that the \$100 contribution be refunded, the contribution was refunded, which was prior to the Hernandez Complaint being filed. The Pharr First Candidates complied with the provisions of 11 CFR 103.3(b)(2) in refunding the contribution as soon as information was received which called into question the contribution.

Very truly yours,

ERIC OPIELA PLLC

By: 

Eric Opiela

Texas Bar No. 24039095



## Office of the Secretary of State

### Certificate of Fact

The undersigned, as Secretary of State of Texas, does hereby certify that the document, Articles of Organization for INTEGRATED BORDER SERVICES LLC (file number 800030944), a Domestic Limited Liability Company (LLC), was filed in this office on November 26, 2001.

It is further certified that the entity status in Texas is in existence.

It is further certified that our records indicate CENTURY INTERNATIONAL SERVICES, INC. as the designated registered agent for the above named entity and the designated registered office for said entity is as follows:

923 HIDALGO



HIDALGO, TX - 78557 USA

In testimony whereof, I have hereunto signed my name officially and caused to be impressed hereon the Seal of State at my office in Austin, Texas on July 20, 2015.



A handwritten signature in black ink, appearing to read "Cascos", followed by a horizontal line.

Carlos H. Cascos  
Secretary of State

JOSE ADAN FARIAS CAMPAIGN FUND 1213 00-1188/1148  
PHARR FIRST 2015  
PHARR, TX 78577  
DATE May 1, 2015   
PAY TO THE ORDER OF Integrated Border Services \$ 100.00  
One hundred and no/100  
 **Lone Star National Bank**  
MEMO Reimbursement Jose Adan Farias

Check 1213 Date: 05/01 Amount: \$100.00



FEDERAL ELECTION COMMISSION  
999 E Street, NW  
Washington, DC 20463

STATEMENT OF DESIGNATION OF COUNSEL

Provide one form for each Respondent/Witness

FAX 202-219-3923

MUR # 6944

Name of Counsel: Eric Opiela

Firm: Eric Opiela PLLC

Address: 6612 Manzanita St

Austin, TX 78759

Telephone: 512-791-6336

Fax: 512-729-0226

E-mail: eopiela@ericopiela.com

The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

7-16-15 Mario A. Bracamontes Commissioner plc. 6  
Date Signature (Respondent/Agent) Title

RESPONDENT:

Mario A. Bracamontes

(Committee Name/ Company Name/Individual Named in Notification Letter)

Mailing Address:  
(Please Print)

222 W. EL Rancho Blanco Rd

Pharr, TX 78577

Telephone (H):

(956) 739-5486

(W):

(956) 739-5486

E-mail:                     

This form relates to a Federal Election Commission matter that is subject to the confidentiality provisions of 52 U.S.C. § 30109(a)(12)(A). This section prohibits making public any notification or investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.



FEDERAL ELECTION COMMISSION  
999 E Street, NW  
Washington, DC 20463

STATEMENT OF DESIGNATION OF COUNSEL

Provide one form for each Respondent/Witness

FAX 202-219-3923

MUR # 6944

Name of Counsel: Eric Opiela

Firm: Eric Opiela PLLC

Address: 6612 Manzanita St  
Austin, TX 78759

Telephone: 512-791-6336

Fax: 512-729-0226

E-mail: eopiela@ericopiela.com

The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

7-10-15

Date

[Signature]

Signature (Respondent/Agent)

Title

RESPONDENT:

Arturo J. Cortez

(Committee Name/ Company Name/Individual Named in Notification Letter)

Mailing Address:  
(Please Print)

1012 EAST BAGWELL ST.

PHARR, TEXAS 78577

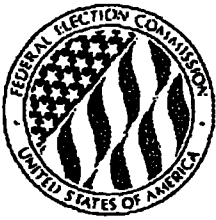
Telephone (H): (956) 739-2106

(W): \_\_\_\_\_

E-mail: \_\_\_\_\_

This form relates to a Federal Election Commission matter that is subject to the confidentiality provisions of 52 U.S.C. § 30109(a)(12)(A). This section prohibits making public any notification or investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.





FEDERAL ELECTION COMMISSION  
999 E Street, NW  
Washington, DC 20463

**STATEMENT OF DESIGNATION OF COUNSEL**

Provide one form for each Respondent/Witness

FAX 202-219-3923

MUR # 6944

Name of Counsel: Eric Opiela

Firm: Eric Opiela PLLC

Address: 6612 Manzanita St

Austin, TX 78759

Telephone: 512-791-6336

Fax: 512-729-0226

E-mail: eopiela@ericopiela.com

The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

7/9/2015 Jose Adrian Farias

Date

Signature (Respondent/Agent)

Title

**RESPONDENT:**

JOSE ADRIAN FARIAS

(Committee Name/ Company Name/Individual Named in Notification Letter)

Mailing Address:  
(Please Print)

1311 S. DOGWOOD

PHARR, TX 78577

Telephone (H): 956-279-2296

(W): \_\_\_\_\_

E-mail: \_\_\_\_\_

This form relates to a Federal Election Commission matter that is subject to the confidentiality provisions of 52 U.S.C. § 30109(a)(12)(A). This section prohibits making public any notification or investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.



FEDERAL ELECTION COMMISSION  
999 E Street, NW  
Washington, DC 20463

STATEMENT OF DESIGNATION OF COUNSEL

Provide one form for each Respondent/Witness

FAX 202-219-3923

MUR # 6944

Name of Counsel: Eric Opiela

Firm: Eric Opiela PLLC

Address: 6612 Manzanita St.

Austin, TX 78759

Telephone: 512-791-6336

Fax: \_\_\_\_\_

E-mail: eopiel@ericopiel.com

The above-named individual and/or firm is hereby designated as my counsel and is authorized to receive any notifications and other communications from the Commission and to act on my behalf before the Commission.

7/9/2015  
Date

Signature (Respondent/Agent)

Title

RESPONDENT:

AQUILES S. GARZA

(Committee Name/ Company Name/Individual Named in Notification Letter)

Mailing Address: 1800 Angelina Marie  
(Please Print)

Austin, TX 78777

Telephone (H)

(W): (954) 702-4415

E-mail: \_\_\_\_\_

This form relates to a Federal Election Commission matter that is subject to the confidentiality provisions of 52 U.S.C. § 30109(a)(12)(A). This section prohibits making public any notification or investigation conducted by the Federal Election Commission without the express written consent of the person under investigation.